



State of Utah

0002

DEPARTMENT OF NATURAL RESOURCES DIVISION OF OIL, GAS AND MINING

Norman H. Bangerter
Governor
Dee C. Hansen
Executive Director
Dianne R. Nielson, Ph.D.
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

April 6, 1992

Mr. Bob Shupe
1810 Shumway Lane
Moab, Utah 84532

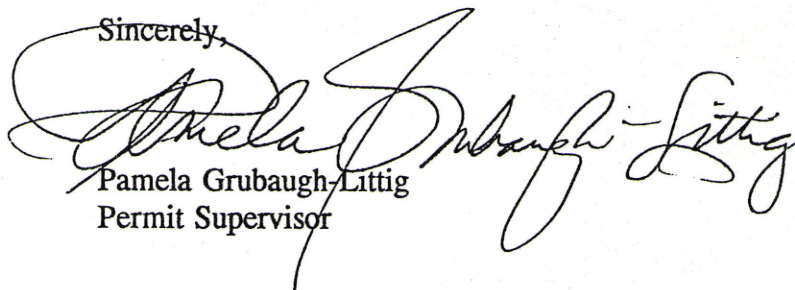
Dear Mr. Shupe:

Re: Application for Noncommercial Use to Mine Coal, Coal Lease Number 43377,
Township 27 South, Range 9 East, PRO/055/003, Folder #2, Wayne County, Utah

Thank you for your letter dated March 30, 1992. This letter does not contain information relative to an application for noncommercial use. Please submit more information (a plan) relative to this application for Division review so that a finding may be made about this exception to applicability to the coal mining R645 rules. If a negative finding is made and this operation does not qualify under R645-100-411, a coal mining and reclamation permit for this area will be required.

If you have any questions, please call me.

Sincerely,



Pamela Grubaugh-Littig
Permit Supervisor

pgl

cc: John Blake, State Lands and Forestry
Bill Malencik

Ms. Pamela Grubaugh-Littig
Permit Supervisor
Division of Oil, Gas and Mining
355 West North Temple, Suite 350
Salt Lake City, Utah 84180-1203

Dear Ms. Grubaugh-Littig

30 March, 1992

Re: Application to mine coal for noncommercial use.

Thank you for your letter of March 24, 1992.
Under Coal mine rules, R614-100-411, we wish to make application
for a mine permit to mine coal for our own noncommercial use.

Coal lease Number ML43377, Township 27 South, Range 9 East,
SW1/4.

Affected land area will be 1 acre max at any time. An area
approx. 30 feet by 30 feet will be worked per year, with
reclamation being preformed on an ongoing basis.

Sincerely,

Bob Shupe
Bob Shupe
1810 Shumway Lane
Moab, Utah 84532

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DIVISION OF
OIL GAS & MINING



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

PRO/055/003

Norman H. Bangerter
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355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

March 24, 1992

Mr. Bob Shupe
1810 Shumway Lane
Moab, Utah 84532

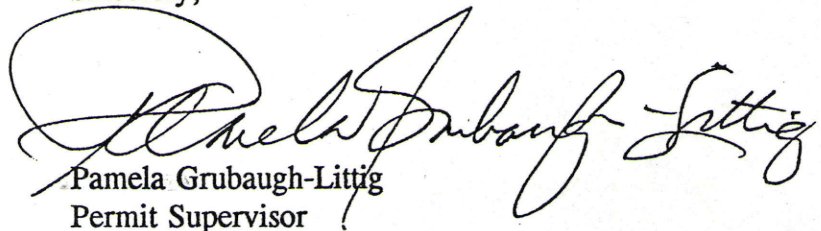
Dear Mr. Shupe:

Re: Coal Mine Permitting Required, Coal Lease Number ML43377, T27S, R9E, SW1/4

Thank you for your letter of March 2, 1992. The Division would be happy to review your petition relating to your qualifications under R645-100-411, noncommercial use.

If you have any questions, please call me.

Sincerely,


Pamela Grubaugh-Littig
Permit Supervisor

cc: John Blake, State Lands
Lowell P. Braxton

Letter

Copy Lowell: PAM
File PRO/055/003
Shupe mine
Copy Bill Malenik

Ms. Pamela Grubaugh-Littig
Permit Supervisor
Division of Oil, Gas and Mining
355 West North Temple, Suite 350
Salt Lake City, Utah 84180-1203

Dear Ms. Grubaugh-Littig

2 March, 1992

Under Coal mine rules, R614-100-411, we wish to apply for a mine permit to mine coal for our own noncommercial use.

Coal lease Number ML43377, Township 27 South, Range 9 East, SW1/4.

Affected land area will be 1 acre. 200 ton coal/max. will be mined each year.

Sincerely,

Bob Shupe
Bob Shupe
1810 Shumway Lane
Moab, Utah 84532

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MAR 04 1992

DIVISION OF
OIL GAS & MINING

or trade of goods or services, including hotels, motels, stores, restaurants, and other commercial establishments.

PASTURE LAND OR LAND OCCASIONALLY CUT FOR HAY - Land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by livestock or occasionally cut and cured for livestock feed.

RECREATION - Land used for public or private leisure-time activities, including developed recreation facilities such as parks, camps, and amusement areas, as well as areas for less intensive uses such as hiking, canoeing, and other undeveloped recreational uses.

RESIDENTIAL - Land used for single and multiple-family housing, mobile home parks, or other residential lodgings.

UNDEVELOPED LAND OR NO CURRENT USE OR LAND MANAGEMENT - Land that is undeveloped or if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession.

Liabilities means obligations to transfer assets or provide services to other entities in the future as a result of past transactions.

Materially Damage the Quantity or Quality of Water means, with respect to ALLUVIAL VALLEY FLOORS, to degrade or reduce, by coal mining and reclamation operations, the water quantity or quality supplied to the alluvial valley floor to the extent that resulting changes would significantly decrease the capability of the alluvial valley floor to support agricultural activities.

Mining means, for the purposes of R645-400-351, (a) extracting coal from the earth or coal waste piles and transporting it within or from the permit area; and (b) the processing, cleaning, concentrating, preparing or loading of coal where such operations occur at a place other than a mine site.

Moist Bulk Density means the weight of soil (oven dry) per unit volume. Volume is measured when the soil is at field moisture capacity (1/3 bar moisture tension). Weight is determined after drying the soil at 105 degrees Celsius.

MSHA means the Mine Safety and Health Administration, U.S. Department of Labor.

Mulch means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing microclimatic conditions suitable for germination and growth.

Natural Hazard Lands means, for the purposes of R645-103-300, geographic areas in which natural conditions exist which pose or, as a result of coal mining and reclamation operations, may pose a threat to the health, safety, or welfare of people, property or the environment, including areas subject to landslides, cave-ins, large or encroaching sand dunes, severe wind or soil erosion, frequent flooding, avalanches, and areas of unstable geology.

Net Worth means total assets minus total liabilities and is equivalent to owners' equity.

Noxious Plants means species that have been included on the official Utah list of noxious plants.

Occupied Dwelling means any building that is currently being used on a regular or temporary basis for human habitation.

"Office" means Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

"Operator" means any person engaged in coal mining who removes, or intends to remove, more than 250 tons of coal from the earth or from coal refuse piles by mining within 12 consecutive calendar months in any one location.

"Other Treatment Facilities" means, for the purposes of R645-301-356.300, R645-301-356.400, R645-301-513.200, R645-301-742.200 through R645-301-742.240, and R645-301-763, any chemical treatments, such as flocculation or mechanical structures such as clarifiers, that have a point source discharge and that are utilized to prevent additional contribution of suspended solids to stream flow or runoff outside the permit area.

"Outslope" means the face of the spoil or embankment sloping downward from the highest elevation to the toe.

"Overburden" means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil.

"Owned or controlled" and **"owns or controls"** means any one or a combination of the relationships specified in paragraphs (a) and (b) of this definition:

- (a) (1) Being a permittee of a coal mining and reclamation operation;
- (2) Based on the instrument of ownership or voting securities, owning of record in excess of 50 percent of an entity; or
- (3) Having any other relationship which gives one person authority directly or indirectly to determine the manner in which an applicant, an operator, or other entity conducts coal mining and reclamation operations.
- (b) The following relationships are presumed to constitute ownership or control unless a person can demonstrate that the person subject to the presumption does not in fact have the authority directly or indirectly to determine the manner in which the relevant coal mining and reclamation operation is conducted:
 - (1) Being an officer or director of an entity;
 - (2) Being the operator of a coal mining and reclamation operation;
 - (3) Having the ability to commit the financial or real property assets or working resources of an entity;
 - (4) Being a general partner in a partnership;
 - (5) Based on the instruments of ownership or the voting securities of a corporate entity, owning of record 10 through 50 percent of the entity; or
 - (6) Owning or controlling coal to be mined by another person under a lease, sublease, or other contract and having the right to receive such coal after mining or having authority to determine the manner in which that person or another person conducts coal mining and reclamation operation.

"Parent Corporation" means corporation which owns or controls the applicant.

"Perennial Stream" means a stream or part of a stream that flows continuously during all of the calendar year as a result of

of the Act due to indifference, lack of diligence, or lack of reasonable care.

"Upland Areas" means, with respect to ALLUVIAL VALLEY FLOORS, those geomorphic features located outside the floodplain and terrace complex such as isolated higher terraces, alluvial fans, pediment surfaces, landslide deposits, and surfaces covered with residuum, mud flows, or debris flows, as well as highland areas underlain by bedrock and covered by residual weathered material or debris deposited by sheetwash, rillwash, or windblown material.

"Valid Existing Rights" means (a) for haul roads" (i) a recorded right of way, recorded easement, or a permit for a coal haul road recorded as of August 3, 1977, or (ii) any other road in existence as of August 3, 1977; (b) a person possesses valid existing rights if the person proposing to conduct coal mining and reclamation operations can demonstrate that property rights to the coal had been acquired prior to August 3, 1977 and that the coal is both needed for, and immediately adjacent to, an ongoing coal mining and reclamation operation which existed on August 3, 1977. A determination that coal is "needed for" will be based upon a finding that the extension of mining is essential to make the coal mining and reclamation operation as a whole economically viable; (c) where an area comes under the protection of 40-10-24 of the Act after August 3, 1977, valid existing rights will be found if" (i) on the date the protection comes into existence, a validly authorized coal mining and reclamation operation exists on that area, ~~or (ii) the prohibition caused by 40-10-24 of the Act;~~ and (d) interpretation of the terms of the document relied upon to establish the rights to which the standard of portions (a) and (c) of this definition applies will be based either upon applicable Utah statutory or case law concerning interpretation of documents conveying mineral rights or, where no applicable Utah law exists, upon the usage and custom at the time and place it came into existence.

"Valley Fill" means a fill structure consisting of any material, other than organic material, that is placed in a valley where side slopes of the existing valley, measured at the steepest point, are greater than 20 degrees, or where the average slope of the profile of the valley from the toe of the fill to the top of the fill is greater than ten degrees.

"Violation, Failure, or Refusal" means for the purposes of R645-402, (1) A violation of a condition of a permit issued under the State Program, or (2) A failure or refusal to comply with any order issued under UCA 40-10-22, or any order incorporated in a final decision issued under UCA 40-10-20(2) or R645-104-500.

"Violation Notice" means any written notification from a governmental entity of a violation of law, whether by letter, memorandum, legal or administrative pleading, or other written communication.

"Water Table" means the upper surface of a zone of saturation where the body of ground water is not confined by an overlying impermeable zone.

"Willfully" means for the purposes of R645-402, that an individual acted (1) either intentionally, voluntarily, or consciously, and (2) with intentional disregard or plain indifference to legal requirements in authorizing, ordering, or carrying out a corporate permittee's action or omission that constituted a violation, failure, or refusal.

"Willful Violation" means an act or omission which violates the State Program or any permit condition, committed by a person who intends the result which actually occurs.

R645-100-300. Responsibility.

310. The Division is responsible for the regulation of coal mining and reclamation operations and coal exploration under the approved

State Program on non-federal and non-Indian lands in accordance with the procedures in the R645 Rules.

320. The Division, through a cooperative agreement, exercises certain authority relating to the regulation of coal mining and reclamation operations on federal lands in accordance with 30 CFR Part 745.

R645-100-400. Applicability.

410. Except as provided under R645-100-420, the R645 Rules apply to all coal exploration and coal mining and reclamation operations, except:

411. The extraction of coal by a landowner for his or her own noncommercial use from land owned or leased by him or her. Noncommercial use does not include the extraction of coal by one unit of an integrated company or other business or nonprofit entity which uses the coal in its own manufacturing or power plants;

412. The extraction of 250 tons of coal or less by a person conducting coal mining and reclamation operations. A person who intends to remove more than 250 tons is not exempted;

413. The extraction of coal as an incidental part of federal, state or local government-financed highway or other construction in accordance with R645-102.

414. The extraction of coal incidental to the extraction of other minerals where coal does not exceed 16-2/3 percent of the mineral tonnage removed for commercial use or sale; or

415. Coal exploration on lands subject to the requirements of 43 CFR Parts 3480-3487.

420. Existing Structure Exemption. Each structure used in connection with or to facilitate coal exploration or coal mining and reclamation operations will comply with the performance standards and design requirements of R645-301 and R645-302, except that:

421. An existing structure which meets the performance standards but does not meet the design requirements of R645-301 and R645-302 may be exempted from meeting those design requirements by the Division. The Division may grant this exemption only as part of the permit application process after obtaining the information required by R645-301-526.110 through R645-301-526.115.4 and after making the findings required by R645-300-130.

422. If the performance standard of the MC Rules (Interim Program Rules) is at least as stringent as the comparable performance standard of the R645 Rules, an existing structure which meets the performance standards of the MC Rules may be exempted by the Division from meeting the design requirements of the R645 Rules. The Division may grant this exemption only as part of the permit application process after obtaining the information required by R645-301-526.110 through R645-301-526.115.4 and after making the findings required by R645-300-130.

423. An existing structure which meets a performance standard of the MC Rules which is less stringent than the comparable performance standard in the R645 Rules will be modified or reconstructed to meet the design standard of the R645 Rules pursuant to a compliance plan approved by the Division only as part of the permit application as required in R645-301-526.110